



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 2, 1998

Ms. E. Cary Grace
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR98-0879

Dear Ms. Grace:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 114597.

The City of Houston (the "city") received a request for information relating to an accident that occurred on December 25, 1997. You assert that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108,¹ 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the information submitted.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. You state that the responsive information, contained in the Accident Investigation Division's file on the accident in question, is maintained by the Houston Police Department ("HPD") and is not part of the policeman's civil service personnel file.² You assert that the internal affairs investigation file, therefore, is excepted from disclosure under section 552.101 in conjunction with section 143.089(g) of the Local Government Code.

¹The city has withdrawn its section 552.108 claim by letter dated February 18, 1998.

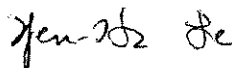
²The documents submitted to this office for review include a peace officer's accident report from the City of Webster. This accident report may be obtained from the Webster Police Department pursuant to section 47(b)(1) of V.T.C.S. article 6701d and section 550.065 of the Transportation Code.

Section 143.089 contemplates two different types of personnel files, a police officer's civil service file that the police department is required to maintain, and an internal file that the police department may maintain for its own use. Local Gov't Code § 143.089(a), (g). In cases in which a police department takes disciplinary action against a police officer, it is required by section 143.089(a)(2) to place records relating to the investigation and disciplinary action in the officer's civil service file maintained under section 143.089(a). Such records are subject to release under chapter 552 of the Government Code. See Local Gov't Code § 143.089(f); Open Records Decision No. 562 (1990) at 6. However, information maintained in a police department's internal file pursuant to section 143.089(g) is confidential and must not be released. *City of San Antonio v. Texas Attorney General*, 851 S.W.2d 946, 949 (Tex. App.--Austin 1993, writ denied).³

You state that the internal affairs investigation file is maintained in the police department's internal file pursuant to section 143.089(g), and that none of the records are contained in the officer's civil service file. We therefore conclude that this information is confidential pursuant to section 143.089(g) of the Local Government Code and may be withheld under section 552.101.

As we have resolved the matter under section 552.101, we need not address your other claimed exceptions. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

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Ref: ID# 114597

³We note that section 143.089(g) requires a police department who receives a request for information maintained in a file under section 143.089(g) to refer that person to the civil service director or the director's designee.

Enclosures: Submitted documents

cc: Mr. Eric Lackshin
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(w/o enclosures)